

EXHIBIT 1

INTRODUCTION

Respondent No on Knight-No on Prop 22 (the “Committee”) was a committee primarily formed to defeat Proposition 22, the “Defense of Marriage Act,” a state ballot measure being voted on in the March 7, 2000 statewide primary election. At all relevant times, Respondent Cary Davidson was the treasurer for Respondent Committee.

This case arose from an audit of Respondent Committee by the Franchise Tax Board (the “FTB”) for the period January 1, 1999 through June 30, 2000. During the period covered by the audit, Respondent Committee received contributions totaling \$6,496,391 and made expenditures totaling \$6,529,428. The FTB found that Respondents failed to accurately report campaign contributions and campaign contributor information, failed to file late contribution reports, failed to timely send major donor notifications to contributors, and failed to disclose sub-vendor information, as required by the Political Reform Act (the “Act”).¹ The findings of the FTB audit were reviewed by Enforcement Division staff, who confirmed that Respondents committed violations of the campaign provisions of the Act as cited in the FTB audit.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: On a semi-annual campaign statement filed on January 10, 2000, for the reporting period October 1, 1999 through December 31, 1999, Respondents failed to report sub-vendor information for a payment of \$800,000 to Media Strategies & Research, in violation of section 84211, subdivision (k)(6), and section 84303 of the Government Code.

COUNT 2: On a first pre-election campaign statement filed on January 27, 2000, for the reporting period January 1, 2000 through January 22, 2000, Respondents failed to properly report contributor information for 214 contributions of \$100 or more, in violation of section 84211, subdivision (f) of the Government Code.

COUNT 3: Respondents failed to disclose a \$6,000 late contribution from California Capitol PAC State, in a properly filed late contribution report by the February 22, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 4: Respondents failed to disclose a \$5,000 late contribution from Forest City

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Residential West Inc., in a properly filed late contribution report by the February 22, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

- COUNT 5: Respondents failed to disclose a \$5,000 late contribution from O'Brien Kreitzberg, in a properly filed late contribution report by the February 22, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 6: Respondents failed to disclose a \$2,000 late contribution from Pamela Soderbeck, in a properly filed late contribution report by the February 22, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 7: Respondents failed to disclose a \$1,000 late contribution from Randi Caplan, in a properly filed late contribution report by the February 22, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 8: Respondents failed to disclose a \$1,000 late contribution from Forrest Tanaka, in a properly filed late contribution report by the February 23, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 9: Respondents failed to disclose a \$5,000 late contribution from Joe Keenan, in a properly filed late contribution report by the February 23, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 10: Respondents failed to disclose a \$1,000 late contribution from Martin H. Tannenbaum, in a properly filed late contribution report by the February 23, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 11: Respondents failed to disclose a \$2,000 late contribution from Ron Rocha, in a properly filed late contribution report by the February 23, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.
- COUNT 12: On a second pre-election campaign statement filed on February 24, 2000,

for the reporting period January 23, 2000 through February 19, 2000, Respondents failed to properly report contributor information for 323 contributions of \$100 or more, in violation of section 84211, subdivision (f) of the Government Code.

COUNT 13: On a second pre-election campaign statement filed on February 24, 2000, for the reporting period January 23, 2000 through February 19, 2000, Respondents failed to report sub-vendor information for a payment of \$500,000 to Media Strategies & Research, in violation of section 84211, subdivision (k)(6), and section 84303 of the Government Code.

COUNT 14: On a second pre-election campaign statement filed on February 24, 2000, for the reporting period January 23, 2000 through February 19, 2000, Respondents failed to report sub-vendor information for a payment of \$575,000 to Media Strategies & Research, in violation of section 84211, subdivision (k)(6), and section 84303 of the Government Code.

COUNT 15: On a second pre-election campaign statement filed on February 24, 2000, for the reporting period January 23, 2000 through February 19, 2000, Respondents failed to report sub-vendor information for a payment of \$225,000 to Media Strategies & Research, in violation of section 84211, subdivision (k)(6), and section 84303 of the Government Code.

COUNT 16: On a second pre-election campaign statement filed on February 24, 2000, for the reporting period January 23, 2000 through February 19, 2000, Respondents failed to report sub-vendor information for a payment of \$182,000 to Media Strategies & Research, in violation of section 84211, subdivision (k)(6), and section 84303 of the Government Code.

COUNT 17: Respondents failed to disclose a \$1,000 late contribution from Paul Connolly, in a properly filed late contribution report by the February 25, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 18: Respondents failed to disclose a \$1,000 late contribution from The Wiseman Group/Paul Wiseman, in a properly filed late contribution report by the February 25, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 19: Respondents failed to disclose a \$1,000 late contribution from Robert Brunson, Jr., in a properly filed late contribution report by the February 26, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 20: Respondents failed to disclose a \$5,000 late contribution from Jared

Schutz, in a properly filed late contribution report by the March 2, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 21: Respondents failed to timely send twenty-one major donor notification letters to contributors of \$5,000 or more, which were due to be sent out within two weeks of receipt of the contributions during the reporting period January 23, 2000 through February 19, 2000, in violation of section 84105 of the Government Code.

COUNT 22: Respondents failed to disclose a \$1,000 late contribution from Stephen Kawa, in a properly filed late contribution report by the March 6, 2000 due date, in violation of section 84203, subdivision (a) of the Government Code.

COUNT 23: Respondents failed to timely send thirty-three major donor notification letters to contributors of \$5,000 or more, which were due to be sent out within two weeks of receipt of the contributions during the reporting period February 20, 2000 through June 30, 2000, in violation of section 84105 of the Government Code.

RESPONDENTS: No on Knight-No on Prop 22 and Cary Davidson.

SUMMARY OF LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Semi-Annual and Pre-election Campaign Statements

At the core of the Act's campaign reporting system is the requirement set forth in Section 84200, subdivision (a), that a recipient committee file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. In addition, section 84200.5, subdivision (b) requires a recipient committee that is primarily formed to support or oppose a state ballot measure to file two pre-election campaign statements before an election in which the committee has contributed \$500 or more. Section 84200.8, subdivision (b) provides that the first pre-election campaign statement, for the reporting period ending 45 days before the election, must be filed no later than 40 days before the election, and the second pre-election statement, for the reporting period ending 17 days before the election, must be filed no later than 12 days before the election.

Section 82013, subdivision (a) defines a "committee" as any person or combination of

persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Additionally, under section 82047, a recipient committee that is formed primarily to support or oppose a single measure is a “primarily formed” committee.

Duty to File Late Contribution Reports

Under section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must file a late contribution report disclosing the contribution within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-election campaign statement that is required to be filed by the committee before the election. Pursuant to section 84200.8, subdivision (b), for an election held in March of an even-numbered year, the late contribution period covers the last sixteen days before the election.

Duty to Disclose Contribution Information

Under section 84211, subdivision (f), when the cumulative amount of contributions (including loans) that a committee receives from a contributor is one hundred dollars (\$100) or more, and the committee receives a contribution from that contributor during the reporting period, the campaign statement for that reporting period must provide descriptive information about the contributor, including: the contributor’s full name, street address, occupation, and employer, or if self-employed, the name of the contributor’s business; the date and amount of each contribution received from the contributor during the reporting period; and the cumulative total amount of contributions received from the contributor. (Section 84211, subdivision (f)(1)-(5).)

Duty to Notify Contributors of \$5,000 or More

When a committee receives cumulative contributions of \$5,000 or more from a contributor in a calendar year, section 84105, as interpreted by regulation 18427.1, requires the committee to notify the contributor that he or she may qualify as a “major donor committee” and therefore have filing obligations under the Act. The notice must be in writing, and sent within two weeks of the \$5,000 threshold being met. A contributor qualifies as a major donor committee by making contributions totaling \$10,000 or more in a calendar year. (Section 82013, subdivision (c).) Under regulation 18427.1, a committee has no obligation to send a major donor notification letter to a contributor if the committee has previously sent a major donor notification letter to the contributor in the same calendar year.

Duty to Disclose Sub-vendor Expenditures

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. This type of information reported by a committee is commonly referred to as “sub-vendor information.” Government Code section 84211, subdivision (k)(6) requires the disclosure of such sub-vendor information as part of the contents of any campaign statements required to be filed by the committee.

Liability of Treasurer

As provided in section 84100, every committee shall have a treasurer. Under section 84100 and regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under sections 83116.5 and 91006, a committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF FACTS

Respondent No on Knight–No on Prop 22 was a committee, primarily formed to oppose Proposition 22 in the 2000 primary election held on March 7, 2000, and Respondent Cary Davidson was the treasurer for Respondent Committee.

Counts 1, and 13-16: Failing to Report Sub-vendor Information

Under Government Code section 84211, subdivision (k)(6), and section 84303, Respondents were required to disclose any expenditure of \$500 or more made by an agent or independent contractor (sub-vendor), including any advertising agency, on behalf of, or for the benefit of Respondent Committee, as if Respondent Committee had made the expenditure itself.

Respondent Committee made payments to Media Strategies & Research for media advertising in numerous California market areas for which Respondents failed to report the required sub-vendor information on Respondent Committee’s second semi-annual campaign statement for 1999 filed on January 10, 2000, and on a second pre-election campaign statement filed on February 24, 2000, for the 2000 primary election. The vendor payments for which sub-vendor information was not properly reported are set forth in the following chart, according to the count to which the vendor payment corresponds, the amount of the vendor payment, and the reporting period in which information about how that payment was spent by sub-vendors should have been reported.

Count	Vendor	Amount	Reporting Period
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Count	Vendor	Amount	Reporting Period
1	Media Strategies & Research	\$800,000	October 1, 1999–December 31, 1999
13	Media Strategies & Research	\$500,000	January 23, 2000–February 19, 2000
14	Media Strategies & Research	\$575,000	January 23, 2000–February 19, 2000
15	Media Strategies & Research	\$225,000	January 23, 2000–February 19, 2000
16	Media Strategies & Research	\$182,000	January 23, 2000–February 19, 2000

By failing to report sub-vendor information as set forth above, Respondents violated section 84211, subdivision (k)(6) and section 84303 of the Government Code.

Counts 2 and 12: Failing to Report Contributions and Contribution Activity on Pre-election Campaign Statements

Under section 84211, subdivision (f), when the cumulative amount of contributions (including loans) received from a contributor is one hundred dollars (\$100) or more, and a contribution is received from that contributor during the reporting period, the campaign statement for that reporting period must provide descriptive information about the contributor, including: the contributor's full name, street address, occupation, and employer, or if self-employed, the name of the contributor's business; and the date and amount of each contribution, including the cumulative total amount of contributions received from the contributor. (Section 84211, subdivision (f)(1)-(5).)

Count 2

The first pre-election reporting period for the March 7, 2000 statewide primary election was January 1 through January 22, 2000, with a final filing date of January 27, 2000. Respondents filed a first pre-election campaign statement on January 27, 2000.

During the first pre-election reporting period prior to the March 7, 2000 statewide primary election, Respondent Committee received 485 contributions of \$100 or more, totaling \$378,796. Respondents failed to fully disclose 214 of those contributions, for a total of \$87,239.00, on Respondent Committee's campaign statement for that reporting period.

By failing to fully report the 214 contributions of one hundred dollars (\$100) or more received during the first pre-election reporting period on the first pre-election campaign statement that was filed on or about January 27, 2000, Respondents violated Government Code section 84211, subdivision (f).

Count 12

The second pre-election reporting period for the March 7, 2000 primary election was January 23 through February 19, 2000, with a final filing date of February 24, 2000. Respondents filed a second pre-election campaign statement on February 24, 2000.

During the second pre-election reporting period prior to the March 7, 2000 statewide primary election, Respondent Committee received 2520 contributions of \$100 or more, totaling \$2,945,904. Respondents failed to fully disclose 323 of those contributions, for a total of \$388,274.50, on Respondent Committee's campaign statement for that reporting period.

By failing to fully report the 323 contributions of one hundred dollars (\$100) or more received during the second pre-election reporting period on the second pre-election campaign statement that was filed on or about February 24, 2000, Respondents violated Government Code section 84211, subdivision (f).

Counts 3-11, 17-20, and 22: Failing to File Late Contribution Reports

Under section 84203, subdivision (a), Respondents were required to file late contribution reports disclosing, within 24 hours of receiving it, any contribution cumulating \$1,000 or more during the late reporting period. The late reporting period for the March 7, 2000 primary election was February 20, 2000 through March 6, 2000.

Respondents failed to timely disclose 14 late contributions in properly filed late contribution reports. The late contributions not timely disclosed are set forth in the following chart, according to the count to which they correspond, which also lists the amount of each contribution, the date it was received, and the date by which it was required to be disclosed on a late contribution report.

Count	Contributor	Amount	Received	LCR Due
3	California Capitol PAC State	\$6,000	2/21/2000	2/22/2000
4	Forest City Residential West Inc.	\$5,000	2/21/2000	2/22/2000
5	O'Brien Kreitzberg	\$5,000	2/21/2000	2/22/2000
6	Pamela Soderbeck	\$2,000	2/21/2000	2/22/2000
7	Randi Caplan	\$1,000	2/21/2000	2/22/2000
8	Forrest Tanaka	\$1,000	2/22/2000	2/23/2000
9	Joe Keenan	\$5,000	2/22/2000	2/23/2000
10	Martin H. Tannenbaum	\$1,000	2/22/2000	2/23/2000

Count	Contributor	Amount	Received	LCR Due
11	Ron Rocha	\$2,000	2/22/2000	2/23/2000
17	Paul Connolly	\$1,000	2/24/2000	2/25/2000
18	The Wiseman Gr./Paul Wiseman	\$1,000	2/24/2000	2/25/2000
19	Robert Brunson, Jr.	\$1,000	2/25/2000	2/26/2000
20	Jared Schutz	\$5,000	3/1/2000	3/2/2000
22	Stephen Kawa	\$1,000	3/5/2000	3/6/2000

By failing to properly disclose late contributions in properly filed late contribution reports, as set forth above, Respondents violated section 84203, subdivision (a) of the Government Code.

Counts 21 and 23: Failing to Send Out Major Donor Notices

When a committee receives contributions cumulating \$5,000 or more from a contributor in a calendar year, Government Code section 84105 requires the committee to notify the contributor that he or she may qualify as a “major donor committee” and therefore have a filing obligation under the Act. The notice must be in writing, and sent within two weeks of the \$5,000 threshold being met. A contributor qualifies as a major donor committee by making contributions totaling \$10,000 or more in a calendar year. (Government Code § 82013, subdivision (c).)

Count 21

Respondents failed to timely send out 21 major donor notices during the second pre-election reporting period for the 2000 primary election. By failing to timely send out the major donor notices during the second pre-election reporting period for the March 7, 2000 primary election, Respondents violated section 84105 of the Government Code.

Count 23

Respondents failed to timely send out 33 major donor notices during the first semi-annual reporting period of 2000. By failing to timely send out the major donor notices during the first semi-annual reporting period of 2000, Respondents violated section 84105 of the Government Code.

CONCLUSION

This matter involves twenty-three counts of violating the Act, carrying a maximum administrative penalty of Forty-Six Thousand Dollars (\$46,000).

This is a serious matter, as it involves a significant number of reporting violations. However, it must be noted that Respondent Davidson served as a volunteer treasurer for Respondent Committee. Respondents have also explained that many of the violations of the Act occurred because a “caging firm” and a database management firm hired by Respondent Committee to process and enter data regarding the contributions received by Respondent Committee, provided inaccurate and incomplete information regarding the contributions received, which Respondents could not rectify until after the election. Moreover, prior to the FTB audit, respondents voluntarily filed all necessary amendments to the errant campaign statements and were fully cooperative, apprising both the FTB audit and the Enforcement Division of the reporting errors. However, Respondents acknowledge that they were responsible for the accuracy of the work performed by Respondent Committee’s vendors.

Regarding Counts 1 and 13-16 the typical penalties for failing to disclose sub-vendor information, when the maximum penalty is \$2,000, have historically ranged from \$1,000 to \$2,000 per count. In this case, the amount of sub-vendor expenditures not reported was significant, and taken with the other significant pre-election reporting violations cited below, a penalty of \$1,800 for each count is appropriate.

Regarding Counts 2 and 12, the typical penalty for failing to properly disclose campaign contributions, when the maximum penalty is \$2,000, has historically ranged between \$1,000 and \$2,000 per count. The number of instances in which contributions and contributor information was either inaccurately reported or not reported makes these serious violations. However, these errors were the result of the difficulties with the database management firm, so a penalty of \$1,500 per count should be imposed.

Regarding Counts 3-11, 17-20, and 22, the typical penalty for failing to properly report a late contribution, when the maximum penalty is \$2,000, has historically ranged between 25% of the total not reported to \$2,000 per count. The number of late contribution reporting violations makes these serious violations. However, it should be noted that respondents timely disclosed 164 late contributions totaling \$730,724; and the total amount not reported, at \$37,000, is not great. In light of these factors and the number of the violations taken with the other significant pre-election violations cited above, a penalty of \$1,500 per count is appropriate.

Regarding Counts 21 and 23, the typical penalty for failing to send out major donor notices, when the maximum penalty is \$2,000, has historically ranged from \$1,000 to \$2,000 per count. It appears that all of the major donor notices that were not timely sent were at least sent to the major donors before they were required to file major donor statements. Based on the limited public harm, a penalty of \$1,000 per count is appropriate.

Based on the foregoing facts and circumstances, a penalty of Thirty-Five Thousand Dollars (\$35,000) is justified.